

buildings or mobile homes located or to be located in areas determined by the Director of the Federal Emergency Management Agency to have special flood hazards. Sections 172.6 and 172.8 of this part apply to loans secured by buildings or mobile homes, regardless of location.

**§ 172.2 Definitions.**

(a) *Act* means the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001-4129).

(b) *Federal savings association* means, for purposes of this part, a Federal savings association as that term is defined in 12 U.S.C. 1813(b)(2) and any subsidiaries or service corporations thereof.

(c) *Building* means a walled and roofed structure, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, and a walled and roofed structure while in the course of construction, alteration, or repair.

(d) *Community* means a state or a political subdivision of a state that has zoning and building code jurisdiction over a particular area having special flood hazards.

(e) *Designated loan* means a loan secured by a building or mobile home that is located or to be located in a special flood hazard area in which flood insurance is available under the Act.

(f) *Director of FEMA* means the Director of the Federal Emergency Management Agency.

(g) *Mobile home* means a structure, transportable in one or more sections, that is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term *mobile home* does not include a recreational vehicle. For purposes of this part, the term *mobile home* means a mobile home on a permanent foundation. The term *mobile home* includes a manufactured home as that term is used in the NFIP.

(h) *NFIP* means the National Flood Insurance Program authorized under the Act.

(i) *Residential improved real estate* means real estate upon which a home or other residential building is located or to be located.

(j) *Servicer* means the person responsible for:

(1) Receiving any scheduled, periodic payments from a borrower under the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan; and

(2) Making payments of principal and interest and any other payments from the amounts received from the borrower as may be required under the terms of the loan.

(k) *Special flood hazard area* means the land in the flood plain within a community having at least a one percent chance of flooding in any given year, as designated by the Director of FEMA.

(l) *Table funding* means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

**§ 172.3 Requirement to purchase flood insurance where available.**

(a) *In general.* A Federal savings association shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan. The amount of insurance must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act. Flood insurance coverage under the Act is limited to the overall value of the property securing the designated loan minus the value of the land on which the property is located.

(b) *Table funded loans.* A Federal savings association that acquires a loan from a mortgage broker or other entity through table funding shall be considered to be making a loan for the purposes of this part.

**§ 172.4 Exemptions.**

The flood insurance requirement prescribed by § 172.3 does not apply with respect to:

(a) Any state-owned property covered under a policy of self-insurance satisfactory to the Director of FEMA, who publishes and periodically revises the

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list of states falling within this exemption; or

(b) Property securing any loan with an original principal balance of \$5,000 or less and a repayment term of one year or less.

### § 172.5 Escrow requirement.

If a Federal savings association requires the escrow of taxes, insurance premiums, fees, or any other charges for a loan secured by *residential* improved real estate or a mobile home that is made, increased, extended, or renewed on or after October 1, 1996, the savings association shall also require the escrow of all premiums and fees for any flood insurance required under § 172.3. The savings association, or a servicer acting on behalf of the savings association, shall deposit the flood insurance premiums on behalf of the borrower in an escrow account. This escrow account will be subject to escrow requirements adopted pursuant to section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) (RESPA), which generally limits the amount that may be maintained in escrow accounts for certain types of loans and requires escrow account statements for those accounts, only if the loan is otherwise subject to RESPA. Following receipt of a notice from the Director of FEMA or other provider of flood insurance that premiums are due, the savings association, or a servicer acting on behalf of the savings association, shall pay the amount owed to the insurance provider from the escrow account by the date when such premiums are due.

### § 172.6 Required use of standard flood hazard determination form.

(a) *Use of form.* A Federal savings association shall use the standard flood hazard determination form developed by the Director of FEMA when determining whether the building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available under the Act. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner. A Federal savings association may obtain the standard flood hazard determination

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form from FEMA, P.O. Box 2012, Jessup, MD 20794-2012.

(b) *Retention of form.* A Federal savings association shall retain a copy of the completed standard flood hazard determination form, in either hard copy or electronic form, for the period of time the savings association owns the loan.

### § 172.7 Forced placement of flood insurance.

If a Federal savings association, or a servicer acting on behalf of the savings association, determines at any time during the term of a designated loan that the building or mobile home and any personal property securing the designated loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required under § 172.3, then the savings association or its servicer shall notify the borrower that the borrower should obtain flood insurance, at the borrower's expense, in an amount at least equal to the amount required under § 172.3, for the remaining term of the loan. If the borrower fails to obtain flood insurance within 45 days after notification, then the savings association or its servicer shall purchase insurance on the borrower's behalf. The savings association or its servicer may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance.

### § 172.8 Determination fees.

(a) *General.* Notwithstanding any Federal or state law other than the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4129), any Federal savings association, or a servicer acting on behalf of the savings association, may charge a reasonable fee for determining whether the building or mobile home securing the loan is located or will be located in a special flood hazard area. A determination fee may also include, but is not limited to, a fee for life-of-loan monitoring.

(b) *Borrower fee.* The determination fee authorized by paragraph (a) of this section may be charged to the borrower if the determination:

(1) Is made in connection with a making, increasing, extending, or renewing